


**WASTE EVALUATION & ENFORCEMENT BRANCH CHIEF  
ACTION REQUEST**

**To:** Lorraine Van Kekerix, Branch Chief  
Waste Evaluation and Enforcement Branch

**From:**   
Georgianne Turner, Section Manager  
Solid Waste Enforcement Section

**Prepared By:** Kyle Gardner, LEA Evaluation Staff

**Request Date:** November 30, 2010

**Action By:** December 15, 2010

**Decision Subject:** Consideration of Permanent Designation Approval and Certification of the Sunshine Canyon Landfill-Local Enforcement Agency (SCL-LEA)

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**SUMMARY**

This item is for consideration of permanent Designation Approval and Certification of the Sunshine Canyon Landfill-Local Enforcement Agency (SCL-LEA) for the Sunshine Canyon City/County Landfill.

On July 22, 2008, the California Integrated Waste Management Board (CIWMB) issued temporary certifications and designation to the SCL-LEA. Permanent approval was contingent upon several items, described in more detail below. The final contingency item was to consider permanent designation and certification after an LEA Evaluation was conducted for the SCL-LEA during the first two years of operation.

**OPTIONS**

1. Issue the requested permanent certifications, and approve the designation for the jurisdiction.
2. Continue temporary LEA certifications and/or designation approval for specific time periods.
3. Terminate temporary LEA certifications and/or designation approval for cause, and appoint CalRecycle as the enforcement agency for the jurisdiction.
4. Take no action. This option would continue the existing temporary certification indefinitely.

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### **ANALYSIS AND FINDINGS**

#### **Background**

Public Resources Code (PRC), Section 43202 allows a local governing body to designate a local agency to be certified by the CIWMB. The local governing body must follow PRC Section 43203 to designate an enforcement agency to carry out solid waste permitting, inspection and enforcement duties in their jurisdiction. The California Code of Regulations (CCR) requires a designated local agency to develop and submit an Enforcement Program Plan (EPP) for the CIWMB to approve and adopt pursuant to statute. The EPP shall embody the designation and certification requirements and demonstrate that the Local Enforcement Agency meets all requirements for the requested certifications. PRC Section 43204, in part, states that no enforcement agency may exercise the powers and duties of enforcement agency until the designation is approved by the CIWMB; and the CIWMB shall not approve a designation unless it finds that the designated enforcement agency is capable of fulfilling its responsibilities under the enforcement program and meets the certification requirements pursuant to PRC Section 43200.

On May 13, 2008, the City of Los Angeles and the County of Los Angeles entered into a Joint Exercise of Powers Agreement (Agreement) for the creation of the new Sunshine Canyon Landfill Local Enforcement Agency (SCL-LEA) for the recently permitted Sunshine Canyon City/County Landfill, which straddles the jurisdictions of both the City and County of Los Angeles. The Agreement between the City and County provided for the creation of a Board of Directors with defined duties and powers to govern the SCL-LEA. The SCL-LEA is administered by the Board of Directors consisting of five members (directors).

On July 22, 2008, the California Integrated Waste Management Board (CIWMB) approved the Enforcement Program Plan and issued temporary local enforcement agency (LEA) certifications and provided temporary designation approval under Title 14, California Code of Regulations (CCR), section 18076(c).

During the hearing on July 14, 2008, CIWMB Permitting and Compliance Committee (Committee) members had questions and expressed concerns over both the need for and feasibility of the rotational management process and whether the rotation schedule was reviewable by the Sunshine Canyon Landfill Board of Directors. Specific concerns were also raised about how the management rotation would potentially impact consistency for the Sunshine Canyon Landfill operation and for the facility operator. As a partial response to CIWMB member concerns, the LEA committed to providing a nine-month self assessment review as a means for determining whether changes in the rotation schedule might be warranted.

In addition to the nine-month self assessment, the CIWMB directed staff to conduct an LEA Evaluation at the end of the first two years of the program (July 2010). The CIWMB will consider all the facts at that time to determine if the one-year rotation of Program Managers and current structure is workable or if adjustments at the end of the first two years of the program will be required for permanent designation approval and certification of the Sunshine Canyon Landfill LEA. The staff will base its assessment of the workability by using the requirements in Public Resource Code section 43214 (LEA Evaluation Criteria).



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Therefore, permanent designation approval by the CIWMB was contingent upon:

1. Receipt of the revised SCL-LEA Board of Directors resolution (designation/hearing panel); Joint Exercise of Powers Agreement (Agreement); and County Board of Supervisors resolution, all citing the correct authority, and appropriately signed and executed, and all to be submitted by August 29, 2008; and
2. Final determination of the acceptability of the one-year rotation issue based on the completion of the following further review:
  - a. Initial self assessment review by the SCL LEA after nine months from the date of the temporary certification and the SCL-LEA to present the results of that review as an informational item to the CIWMB no later than June 30, 2009. This presentation would include the steps the SCL-LEA has taken to assure that the succeeding Program Manager is prepared for a smooth transition to assume the management duties; and
  - b. An LEA evaluation carried out, in accordance with Public Resources Code 43214, by the CIWMB within six months after the completion of two years of SCL-LEA operation. Staff's evaluation will be included on the CIWMB Board's agenda as a decision item for the Board to determine if the SCL-LEA should receive permanent designation approval, continue as a temporary designation approval until remaining concerns with the rotation schedule are resolved, or have its temporary approval terminated unless the rotation period is extended as specified by the CIWMB Board at that time.

Requirements under item number one were deemed adequate by CIWMB as required by August 29, 2008. The necessary documentation (SCL-LEA Board of Directors resolution, JPA, and County Board of Supervisors resolution) were provided to staff.

During the hearing on July 14, 2008, Committee members provided no specific direction on the structure of the self assessment (item 2a). However, the Committee members suggested that the assessment should include the steps that the SCL-LEA would employ to assure the succeeding program manager is/was prepared for a smooth transition to assume management duties.

Under the direction of the SCL-LEA, the self assessment was a survey of members of the SCL-LEA Board of Directors. The survey summary and results were submitted to the CIWMB Board members in October of 2009. Wayne Tsuda, the manager of the LEA at the time, was available at the November 9, 2009 Board meeting for questions regarding the survey. Board members did not have questions regarding the assessment. As a result, the LEA self assessment was accepted as a formally completed task.

In brief, the nine-question self assessment reported (1) that members of the SCL-LEA Board of Directors possessed significant knowledge of the site operations and management to effectively exercise regulatory oversight; (2) that communications between the LEA and the Board were acceptable; (3) that the rotational management schedule was favored over the more traditional single manager approach, and that adequate mechanisms were in place to ensure effective transition for management rotation; and (4) that inspection staff rotation had not presented any problems. The assessment also questioned the SCL-LEA Board of Director members on improvements which could be made to the operation of the SCL-LEA. As a result, it was recommended that SCL-LEA have



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regular meetings, make inspectional and meeting notes available to the SCL-LEA Board members, and provide more immediate feedback on citizen complaints and the follow-up of the complaints.

### **Evaluation Results**

On January 1, 2010, the CIWMB functions were moved to become part of the Department of Resources Recycling and Recovery (DRRR).

On October 6, 2010, DRRR evaluation staff finalized the first formal LEA evaluation of the SCL-LEA. The evaluation covered the two year period from July 2008-2010. No negative findings were made about the LEA's performance, nor was it deemed that the LEA was inadequately fulfilling its responsibilities under Section 43214(d) of the Public Resources Code.

In brief, the evaluation found the SCL-LEA is exercising due diligence in its site inspection responsibilities. LEA staff inspect the site on a weekly basis. The landfill permit and closure plan are in order and up-to-date. No enforcement action has occurred at the site. The LEA's temporary certification remains valid based on its August 13, 2010 Enforcement Program Plan update submittal. Review of the EPP indicates that the LEA meets the conditions of the May 13, 2008 JPA and the July 22, 2008 Board resolution, including managerial and supervisory experience, adequate staffing and staff-duties/responsibilities, a funding mechanism, and a valid hearing panel.

No specific concerns were identified by DRRR in the evaluation with the exception of the LEA inspection staff utilizing the Solid Waste Information System Digital Inspection Process (SWIS DIP) for all site inspections in order to make the inspection submittal process uniform at Sunshine Canyon Landfill. The evaluation determined that some LEA staff were submitting inspection reports in the traditional paper format while others were using SWIS DIP. Utilization of SWIS DIP is not mandatory under regulations governing LEA inspection activities. However, during the discussion of the draft evaluation results at the October 6, 2010 teleconference, the LEA managers agreed to DRRR's request and indicated SWIS DIP would be used to ensure uniform site inspections by late 2010. Currently, the LEA is submitting all inspections through SWIS DIP.

### **FINDINGS:**

The California Integrated Waste Management Act of 1989 (the Act) requires local governing bodies to designate an enforcement agency to carry out solid waste permitting, inspection and enforcement duties in their jurisdiction.

The City of Los Angeles and County of Los Angeles have entered into a Joint Exercise of Powers Agreement (Agreement) pursuant to Public Resource Code (PRC) Section 43203(b) and have designated the Sunshine Canyon Landfill Local Enforcement Agency (SCL-LEA) to serve as the local enforcement agency for the Sunshine Canyon City/County Landfill, SWIS No. 19-AA-2000, and request Board approval of their designation.

DRRR regulations require the local governing bodies to submit a Designation Information Package and require a designated local agency to develop, submit for Board approval, and adopt an EPP pursuant to statute.

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DRRR staff received and reviewed the EPP for the SCL-LEA which incorporates the Designation Information Package, and requests DRRR to approve the EPP and issue certification types "A," "B," "C" and "D" to the SCL-LEA pursuant to Title 14, California Code of Regulations, Title 14, Section 18071. The SCL-LEA has adopted its EPP pursuant to PRC Section 43209.

DRRR staff found the Designation Information Package and the EPP satisfied the procedural requirements of the Act and regulations.

**RECOMMENDATION**

Although the SCL-LEA successfully met the two conditions required for permanent certification, neither of the two administrative requirements in fact specifically examined the primary issue of DRRR's concern related to the establishment of the SCL-LEA: whether the management rotation scheme crafted under the May 13, 2000 Joint Powers Agreement, created any concerns related to management consistency in the implementation of the LEA's duties. While neither the SCL-LEA self assessment or LEA evaluation found or uncovered any concerns over LEA operations, neither report specifically examined management-related questions. The LEA evaluation process focuses on finding matters of fact related to PRC 34214(d), which may indicate management-related issues, but does not specifically examine LEA management issues. Taken together, the self assessment and the LEA evaluation results showed that the SCL-LEA is meeting their mandated requirements as an LEA. There is no direct evidence that the rotation schedule is keeping the LEA from performing according to the requirements set forth in Title 14 or the Public Resources Code.

Based on the findings and facts above, staff recommends approval of permanent LEA designation for Sunshine Canyon Landfill Local Enforcement Agency.

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**BRANCH CHIEF ACTION:**

On the basis of the information in this Request for Action, I hereby issue, pursuant to PRC Section 18076(c), approval of the designation of the SCL LEA and its Enforcement Program Plan and issues certification for types "A," "B," "C" and "D" to the SCL-LEA as the Local Enforcement Agency within the facility boundary of Sunshine Canyon City/County Landfill, which straddles the jurisdictions of both the incorporated area of the City of Los Angeles and in the unincorporated area of the County of Los Angeles.

Dated:



Lorraine Van Kekerix

Branch Chief

Waste Evaluation and Enforcement Branch

